

ANDERSON, MCPHARLIN & CONNERS LLP

LAWYERS

777 NO. RAINBOW BLVD., SUITE 145

LAS VEGAS, NEVADA 89107

TEL (702) 479-1010 • FAX (702) 479-1025

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

EMPLOYEE PAINTERS TRUST; PAINTERS  
VACATION TRUST; PAINTERS JOINT  
COMMITTEE; PAINTERS JOINT  
APPRENTICESHIP TRAINING COMMITTEE;  
PAINTERS INDUSTRY PROMOTION FUND;  
PAINTERS JOINT COMMITTEE INDUSTRY  
PROMOTION FUND; PAINTERS  
ORGANIZING FUND; PAINTERS LABOR  
MANAGEMENT COOPERATION  
COMMITTEE; PAINTERS LABOR  
MANAGEMENT COOPERATION  
INCENTIVE; PAINTERS HEALTH AND  
SAFETY AND UPGRADE TRAINING  
AWARD PROGRAM, each acting by and  
through their designated fiduciaries John Smirk  
and/or Thomas Pfundstein; and the  
INTERNATIONAL UNION OF PAINTERS  
AND ALLIED TRADES INDUSTRY  
PENSION TRUST FUND, acting by and through  
its designated fiduciary Gary J. Meyers,

Plaintiffs,

vs.

RIGGIO BROTHERS CONSTRUCTION, INC.,  
a Nevada Corporation; BIONE D. RIGGIO, an  
individual; WESTERN SURETY COMPANY, a  
corporation qualified to act as surety in the State  
of Nevada; JOHN DOES I-XX, inclusive; ROE  
ENTITIES I-XX,

Defendants.

Case No. 2:09-cv-01831-KJD-PAL

**ORDER GRANTING DEFENDANT/  
CROSSCLAIMANT/COUNTER-  
CLAIMANT/THIRD PARTY PLAINTIFF  
WESTERN SURETY COMPANY'S  
MOTION TO: (1) EXONERATE BOND,  
(2) DISCHARGE WESTERN SURETY  
COMPANY, (3) DISMISS WITH  
PREJUDICE WESTERN SURETY  
COMPANY, (4) REIMBURSE WESTERN  
SURETY FOR COSTS OF  
INTERPLEADER AND (5) DISMISS  
BOND CLAIMANT DEFENDANT  
AHERN RENTALS, INC. FOR FAILING  
TO APPEAR**

1 WESTERN SURETY COMPANY, a South  
2 Dakota corporation,

3 Cross-Claimant,

4 vs.

5 RIGGIO BROTHERS CONSTRUCTION, INC.,  
6 a Nevada corporation; BIONE D. RIGGIO, an  
7 individual,

8 Cross-Defendants.

9 WESTERN SURETY COMPANY, a South  
10 Dakota corporation,

11 Counterclaimant,

12 vs.

13 EMPLOYEE PAINTERS TRUST; PAINTERS  
14 VACATION TRUST; PAINTERS JOINT  
15 COMMITTEE; PAINTERS JOINT  
16 APPRENTICESHIP TRAINING COMMITTEE;  
17 PAINTERS INDUSTRY PROMOTION FUND;  
18 PAINTERS JOINT COMMITTEE INDUSTRY  
19 PROMOTION FUND; PAINTERS  
20 ORGANIZING FUND; PAINTERS LABOR  
21 MANAGEMENT COOPERATION  
22 COMMITTEE; PAINTERS LABOR  
23 MANAGEMENT COOPERATION INCENTIVE;  
24 PAINTERS HEALTH AND SAFETY AND  
25 UPGRADE TRAINING AWARD PROGRAM,  
26 each acting by and through their designated  
27 fiduciaries John Smirk and/or Thomas Pfundstein;  
28 and the INTERNATIONAL UNION OF  
PAINTERS AND ALLIED TRADES  
INDUSTRY PENSION TRUST FUND, acting by  
and through its designated fiduciary Gary J.  
Meyers,

Counterdefendants.

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WESTERN SURETY COMPANY, a South  
Dakota corporation,

Third Party Plaintiff,

vs.

AHERN RENTALS, INC., a Nevada  
Corporation; PAHOR MECHANICAL  
CONTRACTORS, INC., a Nevada Corporation;  
SOUTHWEST CARPENTERS TRUST FUND,  
a Nevada trust;

Third Party Defendants.

**ORDER**

The matter of Defendant/Crossclaimant/Counterclaimant/Third Party Plaintiff Western Surety Company's Motion to: (1) Exonerate Bond, (2) Discharge Western Surety Company, (3) Dismiss with Prejudice Western Surety Company, (4) Reimburse Western Surety for Costs of Interpleader and (5) Dismiss Bond Claimant Defendant Ahern Rentals, Inc. for Failing to Appear [Doc #85] and Plaintiffs' Notice of Non-Opposition to Western's Motion [#86] having come before this Court and this Court having reviewed and considered all pleadings filed herein does hereby order the following:

**IT IS ORDERED** that Bond No. 69898790, issued by Western Surety Company on behalf of Riggio Brothers Construction, Inc. and Bione D. Riggio is hereby exonerated.

**IT IS FURTHER ORDERED** that Western Surety Company is hereby discharged from all liability arising from or relating to Bond No. 69898790.

**IT IS FURTHER ORDERED** that Defendant/Crossclaimant/Counterclaimant/Third Party Plaintiff Western Surety Company is hereby dismissed with prejudice from this Action.

**IT IS FURTHER ORDERED** that the claim of Bond Claimant and Third Party Defendant Ahern Rentals, Inc. is hereby dismissed, with prejudice, and, upon entry of this Order, Ahern Rentals, Inc. shall no longer have any right to assert a claim to the bond proceeds on deposit with the Court.

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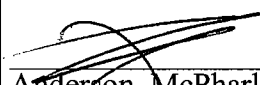
1           **IT IS FURTHER ORDERED** that Western Surety Company shall be reimbursed from  
2 the Bond Funds on deposit with the Clerk of the Court for costs in the amount of \$382.61.

3  
4 DATED: March 17, 2011.

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7 HON. KENT J. DAWSON  
8 United States District Court Judge

9 Prepared and Submitted by:

10   
11 Anderson, McPharlin & Conners LLP  
12 Janiece S. Marshall, Esq., NV Bar No. 4686  
13 777 North Rainbow Blvd., Suite 145  
14 Las Vegas, NV 89107  
15 Telephone: (702) 479-1010  
16 Attorneys for Defendant/Crossclaimant/  
17 Counterclaimant/Third Party Plaintiff  
18 Western Surety Company  
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